

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE
OFFICE OF GENERAL COUNSEL

June 29, 2020

In Reply Refer to:

Complaint Nos. 01NO-20-R1; 02NO-20-R1; 03NO-20-R1

Kathleen A. Theoharides
Secretary
Massachusetts Executive Office of Energy & Environmental Affairs (EEA)
100 Cambridge Street
Suite 900
Boston, MA 02114

Chairperson of the Energy Facilities Siting Board (EFSB)
Massachusetts Energy Facilities Siting Board
One South Station
Fifth Floor
Boston, MA 02110
kathleen.theoharides@state.ma.us

Cecil Fraser
Commissioner
Massachusetts Department of Public Utilities (DPU)
One South Station
Fifth Floor
Boston, MA 02110
cecil.fraser@mass.gov

Re: Administrative Complaints 01NO-20-R1, 02NO-20-R1, and 03NO-20-R1

Dear Secretary and Chairperson Theoharides and Commissioner Fraser:

On June 2, 2020, the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO) received an administrative complaint against the Massachusetts Executive Office of Energy and Environmental Affairs (“EEA”), Massachusetts Department of Public Utilities (“DPU”), and the Massachusetts Energy Facilities Siting Board (“Board”). The complaint alleges that EEA, DPU, and the Board discriminated on the basis of national origin in violation of Title VI of the Civil Rights Act of 1964 and EPA’s nondiscrimination regulation at 40 C.F.R. Part 7, by failing to provide meaningful language access to the limited English proficient (LEP) residents of East Boston and Chelsea during the “East Eagle Reliability Project”

public participation process. ECRCO has determined that it will reject and close the complaint against DPU and the Board. EPA's jurisdictional determination with regard to EEA will be sent in a separate letter.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints to determine acceptance, rejection, or referral to the appropriate Federal agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulation. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulation (i.e., an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

EPA must reject the complaint filed against DPU and the Board for lack of personal jurisdiction. Specifically, EPA was unable to identify any direct or indirect financial assistance from EPA to DPU or the Board. As a result, ECRCO will reject and close the complaint against these two agencies as of the date of this letter. EPA's determination is not binding on any other agency and does not preclude the complainant from filing a complaint with any other federal agency or state agency.

While ECRCO has determined that EEA is a recipient of EPA financial assistance, ECRCO has not yet finalized its jurisdictional determination with respect to the issues raised by the complaint. ECRCO will be contacting EEA in the coming days with additional questions as to its practices and jurisdiction.

No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with ECRCO.

If you have questions about this letter, please feel free to contact me at (202) 564-9649, by email at dorka.lilian@epa.gov, or Brittany Robinson, Case Manager, at (202) 564-0727, by email at robinson.brittany@epa.gov, or Zahra Khan, Case Manager, at (202) 564-0460, by email at khan.zahra@epa.gov.

Sincerely,



Lilian S. Dorka, Director
External Civil Rights Compliance Office
Office of General Counsel

Secretary and Chairperson Kathleen Theoharides
Commissioner Fraser

Page 3

cc: Angelia Talbert-Duarte
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